

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LESLIE PAUL HOWARTH,	:	
Plaintiff	:	
v.	:	Civil Action No. 05-2J
CONCURRENT TECHNOLOGIES CORP.,	:	
Defendant	:	
LESLIE PAUL HOWARTH,	:	
Plaintiff	:	
v.	:	Civil Action No. 05-147J
CONCURRENT TECHNOLOGIES CORP.,	:	
Defendant	:	

MEMORANDUM ORDER

These matters were referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges. The complaints in these two matters, as well as the complaints in three other matters, C.A. No. 05-28J, C.A. No. 05-97J, and C.A. No. 05-98J, allege claims by plaintiff under the Americans with Disabilities Act, 42 U.S.C. § 12101, et seq., against defendant, his former employer.

Defendant filed a motion to dismiss the complaint in C.A. No. 05-02J, docket no. 3. The Magistrate Judge filed a Report and Recommendation on July 15, 2005, at C.A. No. 05-02J, docket no. 16, recommending that the Title III ADA claim be dismissed but that the Title I ADA claim proceed.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation or to amend the complaint. Defendants filed objections to the Report and Recommendation on July 29, 2005, docket no. 18, arguing that the plaintiff had intended to assert his Title I claim at C.A. No. 05-147J.

The Magistrate Judge held a status conference on August 12, 2005. It was agreed by plaintiff, appearing pro se, and defendant, appearing by counsel, that the Title I action would be maintained at C.A. No. 05-147J, and, since no objection had been made to the recommended dismissal of the Title III claim at C.A. No. 05-02J, that the action at C.A. No. 05-02J should be dismissed. It was understood and agreed that for purposes of any defense based on exhaustion of administrative remedies or on a statute of limitations, the Title I complaint at C.A. No. 05-147J would be deemed to have been filed on the date the complaint was filed at C.A. No. 05-02J.

After review of the record of this matter together with the Report and Recommendation, the following order is entered:

AND NOW, this 27<sup>th</sup> day of September, 2005, it is

ORDERED that the complaint is dismissed in C.A. No. 05-02J. Plaintiff's Title I ADA claim shall proceed at 05-147J, but the filing date shall relate back to date of filing the complaint in C.A. No. 05-02J, as stated above. The Clerk shall mark C.A. No. 05-02J closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Gary L. Lancaster", is written over a horizontal line.

GARY L. LANCASTER,  
UNITED STATES DISTRICT JUDGE

cc: Leslie Paul Howarth, Ph.D.  
211 Bentwood Avenue  
Johnstown, PA 15904-1333

Gregory A. Miller, Esquire  
Jaime S. Tuite, Esquire  
One Oxford Center, 20th Floor  
301 Grant Street  
Pittsburgh, PA 15219